



Inner South Canberra Community Council

SUBMISSION ON THE URBAN FOREST BILL

1. Introduction

The Inner South Canberra Community Council (ISCCC) is the peak body for residents groups in inner south Canberra. The ISCCC's overarching objective is to *"preserve and improve the social, cultural, economic and environmental well being of Inner South Canberra and the Inner South Canberra community."*

The residents of Canberra's inner south value highly the amenity provided by its urban forest and green open spaces. Indeed, the ISCCC's online survey of 555 residents in 2019-20 found that the top two things they valued most about where they lived were:

- Streetscape (street trees, vegetation, gardens, width of streets) - 70.63%
- Open spaces (parks, ovals and bushland for recreation) – 69.01%¹

Therefore, the ISCCC has a strong interest in the capacity of the Urban Forest Bill to protect and enhance the Inner South's urban forest on public and private land.

The ISCCC appreciated the participation of the ACT government (Daniel Iglesias from TCCS) and the Conservation Council (Helen Oakey) at the ISCCC'S public meeting on 10 May 2022 to explain and provide their perspectives on the Urban Forest Bill. At the same public forum, we also had speakers on the Planning Bill, as we regard it as essential that the two pieces of legislation work seamlessly together to deliver quality urban infill at the same time as protecting and enhancing the Inner South's streetscape and open spaces.

2. In general, the ISCCC supports the following Objects of the Urban Forest Bill:

- (a) to contribute towards having a tree canopy covering 30% of the Territory's existing and future urban areas by 2045; and
- (b) to support an urban forest that is resilient and sustainable in a changing climate; and
- (c) to protect and enhance the urban forest by protecting individual trees of significance or value, and trees on public unleased land;
- (d) to enhance and contribute to community wellbeing by encouraging community members to interact with the urban forest; and
- (e) to recognise that the urban forest has inherent value and should exist and flourish; and
- (f) to uphold the vitality of the urban forest ecosystem, including maintaining and enhancing biodiversity, habitat and resources for wildlife ; and
- (g) to promote the incorporation of the value of trees and their protection requirements into the design and planning of development, and during periods of construction activity; and
- (h) to promote a broad appreciation of the role of trees in the urban environment and the benefits of good tree management and sound arboricultural practices.

However, with respect to Object (a), the ISCCC considers that the ACT Government should set medium term targets for increasing canopy cover, for example a target for 2030 or 2035. The aim would be to avoid a decline in mature tree canopy in the next decade associated with urban infill in established suburbs before a later increase in canopy cover by 2045. We note that the ACT Government's tree canopy target of 30 per-

¹ <https://www.isccc.org.au/isccc/wp-content/uploads/FINAL-Report-ISCCC-Survey-12May2020.pdf>, accessed 30 May 2022

cent compares unfavourably with a target of 40 percent by 2040 for the City of Melbourne², and 40 percent for Greater Sydney³.

Also, Object (b) should recognise the role of the urban forest in supporting “resilient and sustainable suburbs in a changing climate”, in addition to the resilience and sustainability of the urban forest itself. After all, the ACT Government declared a climate emergency in May 2019, and we must ensure that our suburbs will be liveable for residents in the future during much hotter summers.

3. With respect to specific provisions in the Urban Forest Bill, the ISCCC supports the Kingston and Barton Residents Group submission, specifically on the following issues:

- (A) **Concern regarding decision-making powers vested in the ‘Director-General’** regarding public land and circumstances in which the conservator’s advice can be overturned, with insufficient requirements for scrutiny by the Legislative Assembly and many risks of decisions being overturned under the urban planning legislation. The grounds for rejection of Conservator advice must be objective and clear, particularly when this advice concerns development applications. Notifications and decisions such as proposals for tree-damaging activities should be publicly available (with any sensitive information such as Aboriginal cultural information redacted) as is done for example by many councils in NSW.
- (B) **Concern that residents should be able to obtain approval for tree work in a reasonable time when evidence is presented that a tree is threatening lives or property.** The ISCCC supports greater clarity in s39 (3)c regarding the circumstances in which trees may be removed to safeguard persons and property.
- (C) **Concern about transparency and public notification of decisions.** There should be greater transparency by requiring public notifications (on the TCCS website) for applications, decisions and notifications for tree decisions as is done for development applications.
- (D) **Importance of ‘granular’ measurement and setting targets for tree canopy coverage.** Canopy ‘targets’ must be determined at a suburb and district level to allow meaningful reporting of progress towards the 30% canopy goal. As many mature trees as possible should be protected. Failure to do so in suburbs experiencing high levels of urban infill may produce unintended consequences. For example, allowing ‘offset’ plantings in other suburbs may lead to massive reductions in canopy cover in the urban infill areas and increase their residents’ vulnerability in a warming climate.
- (E) **Need for mandatory provisions for developer contributions to funding of the canopy to ensure consistency and enforceability.** It is unclear from the information provided on the ACT website that the contribution fund will be sufficient to encourage developers to retain mature trees. The ISCCC considers that the number and cash value of Canopy Contribution agreements should be published on a regular basis to ensure transparency, and likewise for the Tree bonds referred to below.
- (F) **Further clarity is needed for requirements for replacement of trees that are removed and about the tree bond.** Perverse outcomes could arise if residents seek to replant trees to avoid costs but where the locations are unsuitable eg shading of solar panels, etc. The legislation appears to be complex to manage and may be costly to administer. Removal of pest trees of regulated size should require replacement under the same conditions applying to other tree removals.

² <https://www.melbourne.vic.gov.au/community/greening-the-city/urban-forest/Pages/urban-forest-strategy.aspx>, accessed 29 May 2022

³ <https://greatercities.au/metropolis-of-three-cities/sustainability/city-its-landscape/urban-tree-canopy-cover-increased>, accessed 29 May 2022

- (G) **General support for the mature tree action plan.** The ISCCC supports the requirements for a tree management plan to ensure mature native trees are managed to support wildlife habitat and biodiversity. We recognise that the urban forest is as important for biodiversity as it is for canopy cover and all its other benefits.
- (H) **Need for enforcement and adequate penalties.** The ISCCC supports the increased information on penalties provided in the bill (ss 43 to 50), and differentiated penalties for homeowners and developers. However, there needs to be greater clarity about the basis of proposed contributions for “offsets” in lieu of replacement planting. The penalties applied to offences are unlikely to deter some developers especially for properties where the profits will greatly exceed the penalties. Penalties should be at a higher scale for developers to create more effective deterrents. There should also be adequate penalties and enforcement action to address other tree damaging actions such as parking under protected trees on verges and compacting their root zones. Verges are often treated as parking lots with little enforcement action being taken under the current system.
- (I) **Support for ‘declared site’ s69 requirements,** under which the Conservator can declare the site of a protected tree which dies under unnatural circumstances a declared site, meaning no development can occur for at least five years on the site. The ISCCC supports this as a stronger deterrent to damaging or removing a tree for the purpose of achieving better financial benefit. However, we understand a similar provision exists in the Tree Protection Act 2005 and would like to know whether those provisions have ever been used.

4. The ISCCC also supports the submission of the Griffith Narrabundah Community Association of 2 June 2022. It has raised a number of important issues, in addition to those raised by the Kingston and Barton Residents Group.

5. Compliance, enforcement and achieving outcomes

For this Urban Forest Bill to be effective in meeting its objectives, it needs to be easily understood by those who have to comply with it, easy to administer and enforce, and to have a good balance between “carrot” and “stick” approaches. The ISCCC is not sure that the Urban Forest Bill has this balance right yet, and considers that the benefits and costs of different “carrot” and “stick” approaches should be assessed. For example, would better and more cost-effective outcomes be achieved by providing residents with suitable replacement trees at discounted rates or for free?

The Bill contains many penalties, but the ISCCC’s experience to date has been that it’s difficult already to obtain speedy action on tree protection matters with the current system. Are we likely to see a commitment to more resources to administer the new system proposed by the Urban Forest Bill and to pay for tree maintenance or will it be left to the existing human and financial resources to manage a much more ambitious agenda? Unless there is a clear and well-resourced administrative framework for the new system, it will be very difficult to achieve the desired outcomes.

Similarly, there is a risk that the long term horizon for the proposed outcome of 30 percent canopy cover by 2045 will lead to complacency in the short to medium term. Hence the suggestion earlier in this submission that, as in the case of medium term greenhouse gas emission targets, there should be a medium term target for tree canopy cover in 2030 or 2035 to maintain a sense of urgency.

In addition to the medium and long term targets for canopy cover, monitoring reports should be provided to the Assembly every year or two on:

- The mapping of heat islands in the ACT (updating the CSIRO’s 2017 heat mapping report⁴), as a key aim of the Urban Forest Bill is to reduce the heat island effect.

⁴ https://www.environment.act.gov.au/__data/assets/pdf_file/0005/1170968/CSIRO-Mapping-Surface-Urban-Heat-In-Canberra.pdf

- The mapping of changes in canopy cover.
- Statistics on losses of mature trees and planting of new trees.
- Statistics on the number of times the Director General overturns the Conservator's decision to refuse a tree removal, and what percentage this is of the total number of Conservator refusals.

The ISCCC would be happy to respond to any questions about our submission, and to participate in any follow-up discussions or hearings.

A handwritten signature in black ink, appearing to read 'Marea Fatseas', written in a cursive style.

Marea Fatseas

Chair

2 June 2022